

**IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
ODESSA DIVISION**

GONZALO YESCAS, JR.,

Plaintiff,

v.

**REDI PUMPING, LLC; AND DAN
HERSHBERGER,**

Defendants.

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Civil Action No. 7:20-CV-252

DEFENDANT REDI PUMPING, LLC’S NOTICE OF REMOVAL

TO THE HONORABLE UNITED STATES COURT:

COME NOW Redi Pumping, LLC, Defendant having been served and filed an answer in the above styled and numbered cause, and files this Defendant’s Notice of Removal, and in support thereof would respectfully show the Court as follows:

I. Introduction

1. Pursuant to 28 U.S.C. § 1441(a) and 28 U.S.C. § 1441(b), Defendant Redi Pumping, LLC timely removes the following civil state court action to the United States District Court for the Western District of Texas, Odessa Division: Cause No. **B-20-09-0975-CV** styled: “Gonzalo Yescas v. Redi Pumping, LLC and Dan Hershberger“, in the 161st Judicial District Court of Ector County, Texas. (the “civil state court action”).

2. Removal to the United States District Court for the Western District of Texas, Odessa Division, is proper because:

- i) Redi Pumping, LLC, is a foreign limited liability company organized in the State of Wyoming with principal office at on 225 W Owen, St. Lyman Wyoming 82937.

Redi Pumping's governing persons are:

- a) Member, Gary Condos with address on 225 W Owen Street, P.O. Box 310, Lyman Wyoming 82937.
- b) Member, Jay R. Anderson with address on 225 Owen, Street. P.O. Box 310, Lyman, Wyoming 82937.
- c) Member, Ace West N2 Pumping, Inc. a Utah corporation with principal office on 14241 S. Canyon, Vine, Draper, Utah, 84020. Ace West N2 Pumping, Inc. was originally organized under the laws of the state of Wyoming on March 27, 2013 where it filed its Articles of Incorporation, but was issued a certificate of transfer to the state of Utah in August 28, 2017.
- ii) Defendant Dan Hershberger is a citizen of Colorado with address on 8200 W 20th Street, Apartment L100, Greeley, Colorado, 80634. (*see*, Exhibit A-3 Plaintiff's First Amended Petition page 2, paragraph 2.03).
- iii) Plaintiff Gonzalo Yescas is a citizen of Texas.

3. The District Courts of the United States have jurisdiction of this action because. (a) this is a civil action between citizens of different states; and (b) the amount in controversy exceeds the sum or value of \$75,000.00 exclusive of interest and costs (Plaintiff's First Amended Petition filed in the civil state court action alleges that Plaintiff is seeking monetary damages and cites Tex. R. C. P. 47 (c) (5) in excess of one million dollars (\$1,000,000.00)).

4. This Notice of Removal is timely filed as this Notice of Removal is filed within thirty-30 days after the Plaintiff filed or served a document — specifically, the service on Defendant Redi Pumping, LLC (misnamed as Redi Services, LLC d/b/a Redi Pumping, LLC) of Plaintiffs' civil state court action occurred on or after October 15, 2020— this creates or establishes diversity jurisdiction allowing removal; and

5. The United States District Court for the Western District of Texas, Odessa Division, is the District Court of the United States for the District and Division embracing the place where the civil state court action was filed

6. This Notice of Removal is signed pursuant to Rule 11, Federal Rules of Civil Procedure.

7. Under 28 U.S.C. § 1446 (a) (b) (2) (C) Only Defendant Redi Pumping, LLC (misnamed as Redi Services, LLC d/b/a Redi Pumping, LLC) is a party to this Notice of Removal because Defendant Dan Hershberger has not been served at the time of the filing of this Notice of Removal and has not filed an answer before the State Court.

II. Statement of Grounds for Removal

A. This Lawsuit Involves a Civil Action Between Citizens of Different States

8. Pursuant to 28 U.S.C. § 1332(a)(2), the United States District Courts have diversity jurisdiction when a civil action is between citizens of different states. Plaintiff represented in his Original Petition filed in the civil state court action that Plaintiff Gonzalo Yescas is a citizen of Texas. Defendant Redi Pumping, LLC (misnamed as Redi Services, LLC d/b/a Redi Pumping, LLC) is a Wyoming limited liability company with its principal place of business in the State of Wyoming. Defendant Redi Pumping, LLC's (misnamed as Redi Services, LLC d/b/a Redi Pumping, LLC) members Gary Gordon and Jay R. Anderson are Wyoming citizens and member Ace West N2 Pumping, Inc. is a Utah corporation with principal place of business in the State of Utah. Therefore, diversity of citizenship exists between all Plaintiffs and all Defendants as required by 28 U.S.C. § 1332(a)(2).

B. Matter in Controversy Exceeds \$75,000.00 Exclusive of Interest and Costs

9. In paragraph 12.01 of his Original Petition filed in the civil state court action, Plaintiff alleges: "Plaintiffs will defer to the jury in deciding the fair amount of compensation necessary to offset the damages she has suffered as a result of the collision at issue, but because the Texas Supreme Court requires Plaintiffs to categorize the amount of relief sought, Plaintiff states that he seeks

monetary relief pursuant to TEX. R. C. P. 47 (c) (5) and pursuant to Tex. R. CIV. P. 47 (d) demands judgment for all other relief to which he may show herself entitled.” More specifically, Plaintiff seeks monetary relief over \$1,000,000 and a demand for judgment for all the other relief to which the parties demi themselves entitled.

10. Plaintiff has alleged that his damages are in excess of one million dollars; therefore the matter in controversy exceeds the sum of Seventy-Five Thousand and No/100 Dollars (\$75,000.00) exclusive of interest and costs; thus exceeding the requisite \$75,000.00 minimum jurisdictional limits of the Court. As a result, the amount in controversy is sufficient for diversity of citizenship jurisdiction.

III. Original Jurisdiction Pursuant to 28 U.S.C. § 1332(a)
Removal Is Proper Pursuant to 28 U.S.C. §§ 1441(a) and 1441(b)

11. Diversity of citizenship exists and it has been ascertained that the amount in controversy exceeds \$75,000.00 exclusive of interest and costs, Therefore, the District Courts of the United States have jurisdiction of this action. 28 U.S.C. § 1332(a). Furthermore, the Defendants are not citizens of Texas. Thus, removal is proper per 28 U.S.C. § 1441(a) and 28 U.S.C. § 1441(b).

IV. Timely Removal

12. Given Plaintiff's allegations quoted above, the suit became removable on or after October 15, 2020, when Defendant Redi was served with process together with a copy of Plaintiff's Original Petition filed in the civil state court action Defendant's Notice of Removal is filed within the thirty day period following the service of Plaintiff's Original Petition. Therefore, the filing of Defendant's Notice of Removal is timely under 28 U.S.C. § 1446(b).

V. Attachments

13. Copies of the following documents are attached to this Notice of Removal:
- A. An index of all documents filed in State Court with copies of each document filed in the state court action
 - B. The Docket Sheet in the state court action as of Tuesday, October 27, 2020
 - C. Certificate of Interested Persons

VI. Notice to Adverse Parties Filing With Clerk of State Court

14. Pursuant to 28 U.S.C. § 1446(d) and promptly after the filing of this Notice of Removal, Defendant Redi Pumping, LLC (misnamed Redi Services LLC d/b/a Redi Pumping, LLC) is giving written notice of removal to all adverse parties and Defendant is filing a copy of the Defendant's Notice of Removal with the clerk of the state district court of Ector County, Texas.

VII. Conclusion

15. For the reasons stated herein reasons, Defendant Redi Pumping, LLC (misnamed Redi Services LLC d/b/a Redi Pumping, LLC) removes the civil state court action to the United States District Court for the Western District of Texas, Odessa Division.

Respectfully submitted,

/s/ Carla De Leon Stafford

Lee Cameron, Jr.

Carla De Leon Stafford (TSBN 24072569)

carla.deleonstafford@wilsonelser.com

**WILSON ELSEER MOSKOWITZ EDELMAN
& DICKER, LLP**

901 Main Street, Suite 4800

Dallas, Texas 75202

214-698-8000 – telephone

214-698-1101 – telecopier

**COUNSEL FOR DEFENDANT REDI
PUMPING, LLC**

CERTIFICATE OF SERVICE

The undersigned does hereby certify that a true and correct copy of *Defendant Redi Pumping, LLC's Notice of Removal* was served upon all parties entitled to receive notice, via the Court's ECF system on this 28th day of October, 2020.

/s/Carla De Leon Stafford